

State Issues

State Ad Tax Threats

MASSACHUSETTS

Massachusetts has become the most recent state to begin seriously considering a state advertising tax. State Senator Sal R. Albano (D-Somerville) announced on May 12th his intention to introduce a bill that would place a 5% tax on specific professional services, including advertising. Albano estimated that his proposal could raise approximately \$200 million per year in new revenues. Senator Albano, the co-chairman of the Joint Study Committee on Education, Arts and Humanities, stated that the advertising tax should be earmarked for education funding. Massachusetts faces the possibility of a significant tax increase as a result of overly optimistic state revenue projections. While Senator Albano's proposal does not appear to have broad support, the Association is monitoring this legislation closely.

CONNECTICUT

The ad tax situation in Connecticut is rapidly heading towards a favorable conclusion. The State Legislature is now attempting to close a projected \$880 million deficit for the 1990 fiscal year which begins July 1, 1989.

After long debate, the House passed a tax bill over the Memorial Day weekend. The bill did not include any tax on advertising space or time. It merely attempted to clarify legislatively the areas that already were being taxed under the existing practices and procedures of the Connecticut Department of Revenue Services. These provisions include taxes on advertising agency layouts, art direction, graphic design, mechanical preparation and production supervision not related to the development of media advertising.

The Connecticut Senate, at 10 p.m. on May 30th, concurred in this action. The Senate also approved, after bitter debate, the House's decision to raise Connecticut's sales tax to 8% from 7.5%. Governor O'Neill is expected to sign this omnibus tax package.


VERMONT

The advertising tax fight in Vermont appears to be over for this year. The Vermont House Health and Welfare Committee approved a universal health care bill partially funded with an

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advertising tax in early March. Because the bill contained a revenue raising provision, it also was sent to the House Ways & Means Committee. Working with the State Advertising Coalition and our Members in Vermont, A.N.A. was able to highlight the major economic disincentives of an advertising tax to House Ways & Means Committee members who backed away from this proposal. At present, an advertising tax bill in Vermont does not seem to be likely.

WISCONSIN


 **Senator Gary George (D-Milwaukee)**, co-chairman of the Legislature's Joint Finance Committee in an unexpected statement to the press recently was quoted as saying, "I am serious about taxing advertising." Budget analysts estimate a tax on advertising could generate \$61 million annually in Wisconsin. No bill has been introduced to date, however, and Governor Tommy G. Thompson has publicly stated that he would veto an advertising tax proposal.

State Alcohol Beverage Proposals

MAINE

 **Legislation which would have required health warning disclosures in all alcohol advertisements appearing in Maine**, "including, but not limited to, advertisements on television, radio and in all print media" is dead for 1989. A.N.A. had notified its malt beverage, wine and distilled spirits Members of the threat, and they effectively presented arguments in the hearings urging the State to wait and assess the impact of federal legislation mandating specific warning labels on all alcohol beverage containers prior to taking any additional actions. The new federal alcohol labeling law has been slated to take effect November 18, 1989.

ILLINOIS

 **Five legislative proposals recently addressed in the Illinois General Assembly would have restricted severely the advertising of alcohol and tobacco products.**

- ☐ Senate Bill 620 required all alcohol beverage advertisements to carry warnings regarding alcohol abuse and birth defects.

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- ☐ Senate Bill 621 mandated that all alcohol advertisements carry a warning that alcohol is harmful.
- ☐ Senate Bill 748 prohibited alcohol billboard signs to be located within 1,000 feet of any school, church or hospital.
- ☐ Senate Bill 618 curtailed alcohol *and* tobacco advertising within a half mile of any public or private school, college or university and prohibited similar advertising on public transit vehicles, stations and shelters.
- ☐ House Bill 1606 prohibited alcohol advertisements "targeted or accessible to children under the age of 21 years."

A.N.A. contacted its malt beverage, wine, spirits and tobacco Members through Legislative Alerts and personal phone calls in late April urging them to oppose these bills. A.N.A. also worked actively with the State Advertising Coalition which engaged an Illinois lobbyist to combat these bills. Two other bills, S. 620 and S. 621 were withdrawn and the three remaining bills were sent to various subcommittees with virtually no hope of being addressed prior to adjournment of the Legislature at the end of June. However, these bills may become the subject of debate when the Legislature reconvenes in January.

California Proposition 105

 A.N.A. has played an active role in helping to initiate a legal challenge questioning the constitutionality of California Proposition 105. A.N.A. along with the Chemical Specialties Manufacturers Association, the California Chamber of Commerce, the California Association of Health Facilities and the Cosmetic, Toiletry and Fragrance Association, recently undertook to retain California counsel to initiate litigation in state court to overturn on constitutional grounds the November, 1988, ballot initiative.

Proposition 105, labeled as the "public's right-to-know" initiative, was approved by 54 percent of the California voters on November 8, 1989. The proposition addresses five disparate areas ranging from warnings regarding the disposal of toxic household products, to disclosure by corporations selling stock in California for business activities in South Africa, to specific disclosures in nursing home contracts and advertisements.

Under the proposition, "any business which advertises a household toxic product intended for use by the general public shall provide clear and reasonable warning that the product should not be placed in the trash unless completely empty, or poured down the drain." The California Department of Health Services has been given the duty of defining "household toxic products" and of defining the nature and quantity of the warnings required. While the proposition is ambiguous, these disclosures may affect advertising.

The California constitution mandates that "an initiative measure embracing more than one subject may not be submitted to the electors or have any effect." The Legislative Counsel of California, the State Legislature's legal counsel, has publicly stated that Proposition 105 violates the "single subject rule" of the California Constitution. It is on the basis of this important principle that A.N.A. and the other members of the ad hoc Proposition 105 Committee are basing their lawsuit.

Massachusetts Retail Advertising Regulations

Executive Vice President Daniel Jaffe met with officials from the office of the Massachusetts Attorney General, on March 31st, to discuss the Commonwealth's proposal to revise substantially its retail advertising regulations. The Commonwealth had been anticipating that the new regulations would take effect this Spring, but public comments from scores of companies and associations, including A.N.A. has forced Massachusetts to delay implementation.

A.N.A. is concerned that amended regulations would impose substantial burdens on advertising in the states. In its meeting with state officials, A.N.A. specifically questioned why sellers should be required to substantiate *all* claims prior to dissemination rather than only material objective claims as required by the F.T.C. A.N.A. noted that the proposal to require substantiation of nonmaterial or objective claims would be impracticable and counterproductive. No new date for final promulgation of the regulations has been announced by the Attorney General's office.

New York "Right to Publicity" Bill

The New York Senate held a hearing on May 15th to discuss proposed legislation which would create a statutory

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right of publicity in New York State. Under the bill this "right of publicity" would be considered a property right that every person has in his "name, voice, signature, photograph or likeness." This right would last for fifty years after death or fifty years from enactment of the bill and would be freely transferable and descendible.

This far-reaching proposal could jeopardize seriously the creative process of advertising. A.N.A. intends to file written comments opposing the Right to Publicity bill. This legislation A.N.A. believes would create broad precedents that would adversely affect the advertising process in New York.

1989-90 MEETING SCHEDULE

Seminars

The Stouffer Westchester Hotel, White Plains, New York

August 28-30	Creative Advertising, Promotion Strategy
September 18-20	Creative Advertising, Media Strategy, Promotion Strategy
October 16-18	Media Strategy
October 23-25	Creative Advertising, Promotion Strategy
December 4-6	Creative Advertising, Media Strategy, Promotion Strategy

Workshops

September 12-13, 1989	Media Workshop The Plaza Hotel, New York City
October 17, 1989	D.M.A./A.N.A. Direct Marketing Workshop The Waldorf-Astoria Hotel, New York City
November 15, 1989	Advertising & Marketing Management Research Workshop The Plaza Hotel, New York City
February 13-14, 1990	Television Advertising Workshop The New York Hilton, New York City
June 5, 1990	Corporate Communications Workshop The Plaza Hotel, New York City
September 12-13, 1990	Media Workshop The New York Hilton, New York City
November 8, 1990	Promotion Workshop The New York Hilton, New York City

Conferences

February 25-27, 1990	Advertising Management Conference The Ritz-Carlton, Laguna Niguel, California
April 1-4, 1990	Business-to-Business Conference The Biltmore Hotel, Coral Gables, Florida
May 6-9, 1990	Advertising Financial Management Conference Hotel del Coronado, San Diego, California

A.N.A. Annual Meetings and Business Conferences

October 1-4, 1989	80th Annual Meeting and Business Conference The Homestead, Hot Springs, Virginia
October 21-24, 1990	81st Annual Meeting and Business Conference The Ritz-Carlton, Naples, Florida
October 27-30, 1991	82nd Annual Meeting and Business Conference Arizona Biltmore, Phoenix, Arizona

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